in November, when this negotiation process began, the City is confident that the parties would not be in a position to have to submit a third PRM to the Mediator. The Mediator has twice before requested that Nextel provide in writing all remaining open issues in this proceeding. In each case Nextel has blatantly disregarded the Mediator's Order and continued to raise additional issues and continually put the City in a compromised negotiation position. The City continuse to be void of all information needed to fully assess the FRA and as of this date Nextel has refused to provide the City with a marked-up copy of Schedule D. The City is concerned whether Nextel's negotiation tactics have been in conducted in good faith. The City also remains skeptical that all of Nextel's issues have been presented. The City hereby reserves its rights to contest any new issues raised by Nextel in Schedule D or otherwise.

A. Timeline for Licensee's Reconfiguration

The question raised by Nextel is: How long does the City of Virginia Beach need both the old and new licenses allocated to the City for reconfiguration? There are three (3) distinct sets of licenses which will each be discussed separately.

WPXJ737 - National Mutual Aide NPSPAC Channels

How long does the City of Virginia Beach need both sets of NPSPAC frequencies? The short answer is that the City must maintain both sets of NPSPAC frequencies until the completion of Wave 4 of the rebanding process. The City will not be put in a position to compromise its communications capabilities in the event of a natural disaster or a national disaster which may require coordinated communications from any one of the 48 contiguous states. This is not simply a "regional coordination" issue, as argued by Nextel, but rather an

issue of national significance.¹ The fact that the City and surrounding region are home to military bases, susceptible to hurricanes and floods and host to millions of visitors during the summer vacation season supports the City's position that its NPSPAC National Mutual Aid communications can not be compromised.

The City has from the beginning of this process maintained that interoperability and minimizing the number of touches to the radios is of high importance. Nextel suggestion to the contrary is patently false. The City's position is that it can not start programming the City's radios before the other cities in the region have confirmed and accepted their replacement licenses and have commenced reconfiguration. This position was articulated in the February 20, 2007 email² provided to Nextel which stated that, "Virginia Beach cannot begin to work on developing subscriber programming templates until the surrounding entities have at least confirmed the suitability of their replacement channels...Until these other entities confirm their replacement channels, including control and fail-soft channel assignments. Virginia Beach cannot complete development of its subscriber radio programming templates. These templates will have to be completed before any programming efforts could begin, although replacement equipment could certainly be ordered in advance of that." The inability of the region to move forward is affected by the inability of many cities within Hampton Roads to reach an agreement with Nextel during PFA negotiations, further exasperating the problem and the region's ability to maintain interoperability.

3

¹ See Exhibit A. Exhibit A contains three (3) "CONFIDENTIAL" documents which: 1) specify that the City of Virginia Beach has been identified as a "High-Risk Metropolitan Area;" 2) identify the City's Hurricane and flooding risks; and 3) describe the City's position as a potential target of terrorism and natural hazards risks given the unione characteristics of the City and region.

the unique characteristics of the City and region.

See February 20, 2007 email from Brian Grogan to Patrick McFadden (with enclosures) attached as Exhibit B.

14

Nextel makes reference to regional coordination by the City and states, "[r]o that end, the amendment provides compensation to Virginia Beach for 736 hours of effort, at a total cost of \$123,200, to help identify the interoperability environment and the timeframe required for the region to have both sets of NPSPAC mutual aid frequencies." The City does not dispute that the above-referenced funding is part of the City of Virginia Beach PFA. However, the funding was provided to the City at the request of Nextel and was agreed to by the Hampton Roads cities and Nextel in a face to face meeting. The funding was requested to avoid confusion and complexity. Instead of every city being responsible for putting regional coordination in their respective PFA's, the City, using Federal Engineering, agreed to contractually facilitate the regional coordination effort. Norfolk. Portsmouth, Suffolk. Chesapeake. Virginia Beach, Hampton. Newport News and York voted and agreed to this concept. Each jurisdiction executed letters of agreement authorizing the City to operate as the agent for the region in order to provide payment to Federal Engineering for the services required by the Hampton Roads entities for overall coordination of the rebanding effort. The City is not acting as the "Program Manager," but is merely a facilitator using its existing contract relationship with Federal Engineering to facilitate the regional coordination effort on behalf of the Hampton Roads regional entities.

The City cannot accept language proposed by Nextel on this issue that assumes the parties will be able to reach agreement on the timing for release of the frequencies at some future date. The TA has recognized this issue and has provided guidance. The TA Reconfiguration Handbook provides as follows:⁶

Define your requirements for minimum disruption and document the optimal solution.

See Nextel PRM at p.3.

See Exhibit C which includes executed letters form each jurisdiction regarding the regional coordination effort.

[&]quot; See TA Reconfiguration Handbook p. 56 item E. Step 5.

Sample Solution 1: For the five nationwide mutual aid channels, maintain back-to-back repeaters on the old and new mutual aid channels for each channel and site, region-by-region, for the duration of the reconfiguration process. If appropriate, this plan should also include any region-specific mutual aid channels used in a similar fashion to the NPSPAC channels.

Sample Solution 2: Keep both sets of mutual aid channels programmed into the subscriber equipment for the duration of the reconfiguration process.

Sample Solution 3: You may also form an informal committee of agency groups that typically operate under a mutual aid plan, and document those mutual aid plans and operational requirements. Then, determine options for reconfiguration factors, such as timing, additional hardwave, and programming masks that will minimize disruption to the mutual aid plans, including a process to inform users of any interim changes to the mutual aid operations.

Based upon the forgoing, the City maintains that the TA guidance supports Sample Solution 2 for the City of Virginia Beach. Thus, the City proposes that the language of the FRA read as follows:

Returning cooperation: Pursuant to Call Sign WPXJ37, Nextel will ensure that the Replacement Frequencies will be cleared of all users no later than ten (10) days before the day designated as the beginning of the 1st touch under the reconfiguration timeline in Motorola SOW attached. Nextel will notify Incumbent of the decommissioning of the Replacement Frequencies within five (5) days following completion of the decommissioning. Incumbent will notify Nextel that Incumbent has cleared the Incumbent Frequencies following the completion of the reconfiguration process through to Wave 4.

2. WQEF832 – 12 NPSPAC Licenses

The City can relinquish these licenses sixty to ninety (60-90) days after the first touch and they will not be needed during the duration of the first touch. Nextel has agreed to the City's position on this issue based upon an email from Patrick McFadden dated February 28, 2007.7

The City suggests the following wording for the FRA to document this agreement:

26

See email from Patrick McFadden to Brian Grogan dated February 28, 2007 attached as Exhibit D.

Pursuant to Call Sign WQEF832, Nextel will ensure that the Replacement Frequencies will be cleared of all users no later than ten (10) days before the day designated as date required for infrastructure activation at the end of the 1st touch as designated under the reconfiguration timeline in Motorola SOW attached. Nextel will notify Incumbent of the decommissioning of the Replacement Frequencies within five (5) days following completion of the decommissioning. Incumbent will notify Nextel that Incumbent has cleared the Incumbent Frequencies 60–90 business days after infrastructure cutover.

WNQJ860 & WZS605 – Secure Repeater and Talk around (TA) Channel covered in the Wave 1 Phase 1 FRA.

With respect to these talk around channels, the City currently has both the old and the new licenses. The issue is when must the City relinquish licenses that were held over from the Phase 1 FRA to minimize costs associated with the second radio touch. When the FRA for Phase 1 was executed by and between the City and Nextel, the TA stated in its letter of acceptance to Nextel as follows:

The 800 MHz Transition Administrator ("TA") has completed its review of this Agreement, submitted to the TA on August 8, 2006. The TA hereby grants its approval of the Agreement in the amount of \$149,825.19. However, we note that the licensee is effectively asking to defer reconfiguration of a portion of their 1-120 channels until Stage 2. We understand the benefits of such a deferral and are approving same based on the representations by Sprint Nextel and the City of Virginia Beach that all the affected NPSPAC licensees in the adjacent area in Virginia are aware of this deferral and in agreement. We believe the TA's approval of this deferral renders unnecessary the approach described in the FRA regarding the need for an \$TA or a spectrum leasing agreement.

Additionally this Agreement is approved with the following understanding:

Sprint Nextel and the City of Virginia Beach agree to coordinate the implementation of this reconfiguration with any and all affected NPSPAC licensees including, but not limited to, those identified in Attachment I hereto and as the attachment may change due to license modifications. Sprint Nextel and the City of Virginia Beach will monitor the physical retuning schedule of the City of Virginia Beach and the incoming co-channel and adjacent channel NPSPAC licensees to ensure that no interference results from Virginia Beach occupying the spectrum until it ceases operations on the SSI-SS4 MHz channels.

The deferred channels will be cleared the earlier of June 30, 2007 or 30 days after notice from an affected NPSPAC licensee indicating the NPSPAC licensee is ready to relocate to one of the 1-120 channels still occupied by l'irginia Beach.

The TA's statement modified the FRA Phase 1 to eliminate the need for a STA or leasing agreement and added additional conditions on the timing. Based upon the TA's statements, the City understood that the parties would further address the timing in this FRA to extend the June 30, 2007 timeframe nine (9) months (consistent with the nine (9) months given from the point of FRA Phase 1 signing in September 2006). As negotiations for the FRA Phase 2 have languished, the June 30, 2007 date is no longer realistic or practical. The City believes the wording to address this issue in the FRA should read as follows:

Pursuant to Call Signs WNQJ860 & WZ\$605, City of Virginia Beach already holds the replacement channels. The Incumbent deferred channels will be cleared the earlier of April 30, 2008 or 30 days after notice from an affected NP\$PAC licensee indicating the NP\$PAC licensee is ready to relocate to one of the 1-120 channels still occupied by the City of Virginia Beach.

B. Additional FRA Language Issues

The City and Nextel have reached agreement on certain revisions to the FRA. In particular, the City has confirmed with Motorola that the following equipment: (1)Visar; (5) MTX8250: and (49) GTX does not need to be replaced or reprogrammed as part of rebanding. This equipment will be removed and the Motorola proposal will be modified. In addition, the Smart Zone software was requested by the City for the control stations. Motorola will change the software option from G51 SmartZone Operation to G50 SmartNet Operation and Motorola's proposal will be modified accordingly to complete the FRA.

See September 8, 2006 letter from John Furey, Senior Manager Bearing Point to Mr. J.H. Sandy Edwards Vice President, Public Safety Networks Nextel Communications attached as Exhibit E.

Both Motorola and Federal Engineering will need to submit modified SOWs for finalization of the FRA. The revised SOW for each vendor will include revisions to reflect the revised cost estimates and will also address the following items

- Schedule two stage NPSPAC return it is mentioned in the SOW but not shown on the schedule.
 - 2. Control stations need to be added to the equipment list $(25 \times \$70 = \$1,750)$
 - Frequency table 851,3375/806.1750 This should read 851,3375/806.33750.
 - 4. PM. SE Site Coordinator hours on the table
 - 5. Site Lens vs SIMS II in the FRA tables
 - SAIR LTS2000 XTS2500RB

The City and Nextel are in agreement that Federal Engineering, not Nextel, will perform the City's filings. Thus the FRA should contain the following language:

Frequency Reconfiguration Process.

(a) On or before the Closing Date (as defined below) (i) Nextel or Incumbent will cause the modification of the Incumbent Licenses to add the Replacement Frequencies or Nextel will cause the creation of a new FCC license for Incumbent that includes the Replacement Frequencies; (ii) Incumbent will cause the assignment of the Incumbent Frequencies to Nextel or will cause the deletion of the Incumbent Frequencies from the Incumbent Licenses following Reconfiguration of Incumbent's system; and (iii) Nextel will cause the modification and/or cancellation of the FCC licenses it holds for the operation of 500 MHz frequencies that are co-channels of the Replacement Frequencies, to the extent required to meet the technical short-spacing requirements of Section 90.621(b) of the FCC's Rules, 47 CFR § 90.621(b), as such rule may be amended from time to time by the FCC

(b) The parties agree that Incumbent will make the FCC assignment filings for the Replacement Frequencies.

The Nextel proposed FRA also includes at Section 20 (a), Motorola Replaced Equipment, the following section:

(a) If the reconfiguration of the Incumbent's existing facilities to operate on the Replacement Frequencies involves the replacement of any of Incumbent's existing equipment with Motorola Schedule D Equipment (as identified on Schedule D). Incumbent will return the equipment replaced by the Motorola Schedule D Equipment as identified on Schedule D (the "Motorola Replaced Equipment") to Motorola within 60 business days from the actual replacement of the Motorola Schedule D Equipment (shipping fees to be paid by Nextel)

This proposed language from Nextel is unacceptable to the City. The City cannot return or affect to be returned, the large quantity of radios involved in this process in a thirty (30) day period. Moreover, the return of radios is tied to the receipt of the equipment which the City will receive long before it replaces the equipment. Based on the foregoing, the section should instead read as follows:

Incumbent will return the equipment replaced by the Motorola Schedule D Equipment as identified on Schedule D (the "Motorola Replaced Equipment") to Motorola within 90 days from the actual replacement of the Motorola Schedule D Equipment (shipping fees to be paid by Nextel)

C. City Legal Fees

Nextel has requested clarification regarding the City's total legal fees related to the rebanding process through completion of the FRA. Nextel has already accepted as reasonable the City's total legal fees through January 31, 2007.9 These fees included the PFA anticipated costs through April 30, 2006 of \$31,840.50 as well as an additional \$31,023.00 for costs incurred over and above the PFA estimated costs.

The City has also incurred additional legal fees from February 1, 2007 through February 28, 2007 of \$6,589,00. To the extent the parties are able to agree upon the terms for an FRA, the City anticipates additional negotiations involving legal counsel will be required. The City further anticipates that certain issues identified in the FRA that "are to be determined" will

[&]quot;See Nextel Supplemental PRM dated February 27, 2007 at p.6.

require additional costs for legal advice. This rebanding process began in July of 2005 and on average the City has incurred approximately \$3600 per month in legal fees and costs. The City maintains that the legal fees and costs associated with this process could have been reduced had Nextel given the City the benefit of all outstanding issues in a timely manner thereby reducing the likelihood of PRMs in this proceeding. The City can only base its anticipated future costs in this proceeding on the City's historical experience addressing issues raised by Nextel over the past year. Based on the City's experience in this negotiation, the City anticipates that resolving all issues, including completion of the FRA and resolution of issues "to be determined" at a future date, may extend the process for an additional seven (7) months. Therefore the City estimates additional legal fees and costs of \$25,200 (7 x \$3600).

D. City's Estimated Costs

The City has previously submitted its total estimated costs for rebanding.¹⁰ The City and Nextel remain approximately \$100,000 apart and have not reached agreement on the total estimated costs. The City previously briefed this issue for the Mediator in the prior PRM and reply PRM requested by the Mediator. The arguments set forth is those prior submissions are hereby incorporated by reference into this PRM as if fully set forth herein.¹¹

III. CONCLUSION

The City concurs with Nextel that the parties have made considerable progress to narrow the list of outstanding issues. The City has set forth herein proposed language to resolve the remaining outstanding issues regarding the FRA. If the parties are unable to reach agreement, the City asks the Mediator to recommend adoption of the City's proposed resolutions and

ы See Exhibit F

¹¹ See City PRM dated January 10, 2006 and City Reply PRM dated January 16, 2007.

language for the FRA so that the parties may execute an FRA and proceed with the reconfiguration of the Virginia Beach system. The City can no longer absorb any more delay as the 2007 Hurricane season begins June 1, 2007 and our upcoming tourist season starts in April 2007 (estimated 3 to 5 million visitors).

With respect to the City's estimated costs, the City remains hopeful that an agreement can be reached. However, the City has applied all of its leverage upon its vendors and has reduced its internal costs to a level below the Phase I proceeding previously funded by Nextel. The City sees little to no opportunity to further reduce its estimated costs. If the costs for Motorola and Federal Engineering are further reduced, it is likely that the project will be rejected by the City's vendors, leaving the City few options to accomplish the rebanding in a timely manner. If the parties are unable to reach agreement on the remaining costs, the Mediator should recommend reimbursement for the costs proposed by the City as reasonable, prudent and necessary costs for the reconfiguration of the City's radio system.

The undersigned attests to the statements and representations made in this PRM and Appendix are true and accurate to the best of his knowledge.

CITY OF VIRGINIA BEACH, VIRGINIA

By:

Brian T. Grogan, Esq. Moss & Barnett

4800 Wells Fargo Center

90 South Seventh Street Minneapolis, MIN 55402

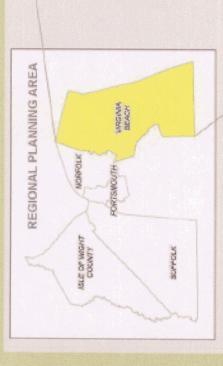
(612) 877-5340 (phone) (612) 877-5999 (fax)

GroganB a moss-barnett.com

March 2, 2007

EXHIBIT A

A-1



The September Original Sporter

FIGURE 4.7

SPECIAL FLOOD HAZARD AREAS: VIRGINIA BEACH

Floodway

100-year Floodplain

Flood Zone VE

Mayor Hydrology

Rai Line

State Park

Military Reservation

Virginia Beach

Data Sowrces: City of Virgina Beach; Federal Emergency Management Agency

For Planning and/or Mustration Purposes Only

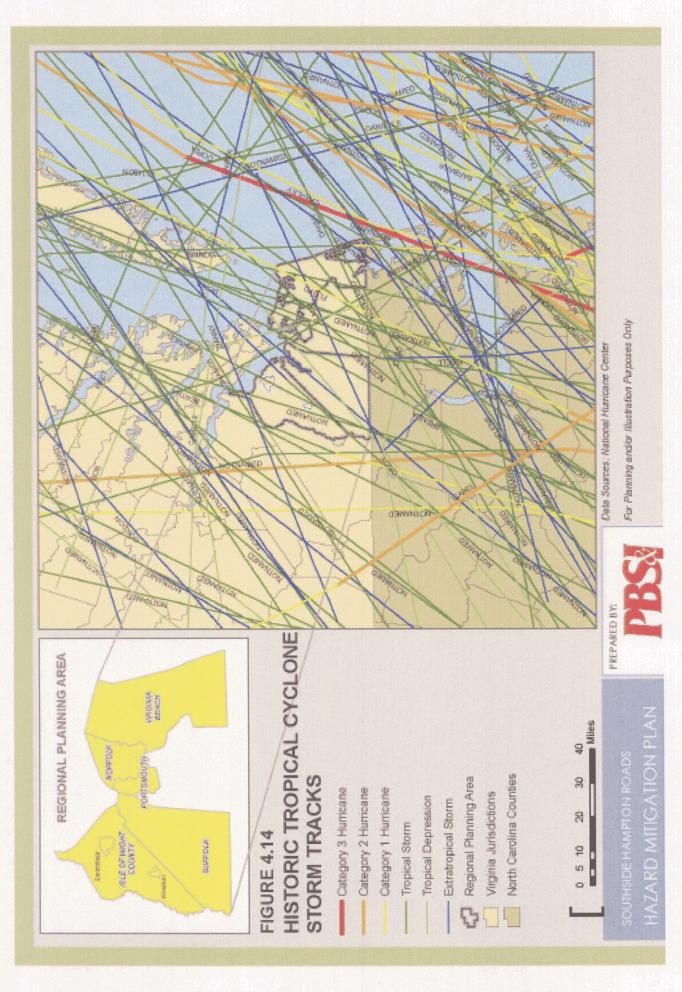


PREPARED BY:





24



Department of Justice High-Risk Metropolitan Area Interoperability Assistance Project Improving emergency communications interoperability in 25 metropolitan areas nationwide



Nationwide Problem

In recent years, a growing number of acts of domestic terrorism, civil disturbance, and natural disasters have demonstrated the need for local, state, and federal public safety providers to better coordinate their efforts at the scene of an incident. Many federal public safety entities must now be able to communicate directly with one another and with their state and local commemparts that are also critical frontline defenders of homeland security.

Action

The Department of Justice (DOI) has developed a plan that will provide federal law enforcement homeland security agencies with basic intersystems communications, as well as interoperability interconnectivity with key state and local authorities for emergency situations. The plan will address communications for the top metropolitan areas that are likely targets for attack. This action plan is being implemented in coordination with the interoperability efforts of the Department of Homeland Security (DHS), SAFECOM, and the Office of Domestic Preparedness.

Approach

In response, DOJ created a five-phased plan. The phases, and their current completion status, include-

- Phase 1 Identify cities considered to be most likely targets (Complete)
- Phase 2 Gather data on each cities' communications initiatives, capabilities, and infrastructure (Complete)
- Phase 3 Select and recommend solutions to participating agencies
- Phase 4 Develop rechnical and operational solution plans
- Phase 5 Implement technical and operational solutions

Participants

Metropolitan areas have been selected for assistance based on the following 10 criteria-

- Identified as priority area in joint DOJ/DHS data call
- DHS perceived threat to the metropolitan area
- Number of terrorism threats received
- Population of more than I million
- Presence of major airport hub(s)
- Presence of military installation(s)
- Tours on descination
- Significant relecontributions hubs
- Presence of a top 50 port (based on toursage)
- Presence of energy industry (e.g., nuclear facility)

The 25 cities chosen for this initiative are:

- Atlanta, GA
 - Houston, TX
- Baitimore, MD - Boston, MA
- Jacksonville, FL Los Augeles, CA - Miami, FL
- Charlotte, NC Chicago, IL.
- New Orleans, LA Dallas, TX New York, NY
- Denver, CO Detroit, MI Honolulu HI
- · Norfolk, VA Philadelphia, PA - Phoenix AZ
- · Portland, OR
- · San Diego, CA
- San Francisco, CA
- Seattle, WA
- St. Louis, MO
- Tampa, FL
- · Washington, DC

Solution

Using data gathered on each metropolitan region's initiatives. capabilities, and infrastructure (Phase 2), DOJ is determining the most feasible option to ensure basic interoperability is achieved. Potennal options have been subdivided into three general categories—fixed, mobile, and operational solutions. The solution chosen for a specific metro area will be comprised of one or more of these general categories.

- Fixed solutions refer to permanent interconnects of disparate systems. An example is the buildout of mutualaid channels to support local, state, and federal public safety agencies or implementation of a console-to-console patch
- Mobile colutions refer to temporary network links for a limited geographic area. An example is a vehicle-mounted audio manix switch which would be deployed to an incident scene requiring multi-agency response
- Operational solutions address management issues of interoperability equipment. An example is writing Standard Operating Procedures (SOP) to support interoperable radio communications during an emergency

Contact Information

If you would like to know more about this initiative or have questions, please contact the following-

Tita Ritter, Director, DOJ Wireless Management Office

Phone: 703 322 1661 E-mail: tim rittergausdor gov

Rob Zanger, Attorney: Advisor, DOJ Wireless Management Office

Phone: 703.312.1675

E-mail: robert zu zaugen ausdot gov

36 1003690v2

Describe your understanding of the spectrum of terrorism and natural hazards risks your State/Territory/Urban Area faces. Explain how this understanding influenced development of this Investment Justification. (3,500 Char. max)

The Hampton Roads region is composed of 16 localities, all with unique characteristics as well as threats. The region has experienced natural, technological, and terrorist disasters. To date, all of the localities have worked vigilantly to protect and reduce our risks. However, we are still at risk and must continue the efforts to make sure we are providing our citizens with the best possible prevention methods, response capabilities, and recovery plans.

Due to its location Hampton Roads is most often vulnerable to hurricanes, tropical storms, flooding and ice storms. Since 1851, 106 hurricanes and tropical storms have passed within 75 miles of the region, 29 of which crossed directly through the region. This translates into an estimate of a 68% chance that a storm may potentially impact the region on an annual basis. Nor easters are also a common occurrence. These storms are usually associated with riverine and coastal flooding resulting from rainfall, tidal and storm surges. The most destructive recent storms have been Hurricanes Isabel (2003). Floyd (1999) and Bonnie (1998). While not impacting just one area, ice storms frequent Hampton Roads and can be quite costly. A series of ice storms struck the region in 1993-1994 and again in 1998 and 2000.

Hampton Roads has a high potential for terrorist and WMD events. This statement is based on risk assessments conducted by local police. Virginia State Police and the FBI indicating our risk, potential targets and their potential value for a terrorist.

Hampton Roads is home to the world's largest military industrial complex, which encompasses 22 military installations and multiple supporting defense contractors. Combined with these risks are a large permanent population, a large tourism industry and a population increase in areas of mass gathering. Events of mass gathering occur on a frequent basis with tens of thousands of people in relatively small areas. Examples include the American Music Festival, Harborfest, East Coast Surfing Championships, Cuervo Gold International Beach Volleyball challenge, Invitational Soccer Championships, multiple marathons, and other events year round.

In November of 2001 the Joint Terronsm Task Force conducted a risk assessment of Hampton Roads. The following targets have been identified from that report: Agriculture, sports facilities, tunnels that connect the peninsula to the Southside, bridges, major water and wastewater facilities (44), multiple military facilities, places of worship, major port and port facilities, major defense contractors, schools and universities. Intercoastal waterway, nuclear and other power plants (4), fuel storage facilities, and historic sites (6000+). Examples of some of the region's threatened or actual WMD events have been:

•Virginia Beach departments and HAZMAT teams responded to over 1,000 suspicious powder calls in last quarter of 2001 alone - This included numerous assists to Norfolk. Chesapeake, Portsmouth and Newport News, as Virginia Beach was the only team with biological testing equipment.

- Explosive device incidents, numbering 230, as the primary command agency responsible for incidents and supporting Police EOD activities.
- Pipe bombs attached to two above ground fuel storage tanks at tank farm.

Our region plans and responds to an array of hazards. The investment justifications reflect our efforts to reduce our vulnerability to those hazards. Our region is addressing the HOW and the WHY in our investments in order to create and maintain solid response practices for our region. The HOW is the equipment purchases, training, and exercising. The WHY is the planning, identification, and assessment in our region. The 9/11 Commission stated that we should view terrorism as "over here" and on our soil, these investments reflect our roles in responding to that charge. Because Hampton Roads is a high-threat, high-density Urban Area, our risk and vulnerability is high. These investments will assist us in building and sustaining capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism.

EXHIBIT B

B-l

From: Grogan, Brian T.
Sent: Tuesday, February 20, 2007 10:45 AM
To: McFadden, Patrick R.
Co: 'Doug Onhaizer'; 'Aimee E. Knapp'; 'Burlingame, John A.'
Subject:
Importance: High

Patrick:

Below please find the email the City sent to John Burtingame on February 15th with responses to the issues raised by Sprint. Please let me know if you require further discussion on these issues.

Bnan

From: McFadden, Patrick R. [mailto:Patrick.McFadden@dbr.com] Sent: Tuesday, February 20, 2007 10:19 AM To: Grogan, Brian T. Subject: FW: Virginia Beach Importance: High

Brian - have you had any opportunity to gather any further information on these issues? I would hope that at least with respect to your fees, if you could provide us with an estimate, we could likely tie that off fairly quickly.

Thanks. Patrick

Patrick R. McFadden Drinker Biddle & Reath LLP 1500 K Street N.W., Suite 1100 Washington, DC 20005-1209 (202) 354-1330 patrick.mcfadden a dbr.com

From: Grogan, Brian T.
Sent: Thursday, February 15, 2007 4:27 PM
To: 'Burlingame, John A.'
Co: 'Aimee K. Sullivan'; Doug Onhaizer
Subject:
Importance: High

John:

See responses to John Wilson's Questions as drafted by Doug Onhaizer:

1. Replacement equipment issues forwarded to the city:

1 – Visar

5 - MTX8250

49 - GTX

After checking, these units do not qualified for replacement and do not appear on the replacement matrix. Could you ask Motorola why these units were identified to be replaced?

Response: Per Motorola - These radios are capable of operation on Virginia Beach and neighboring systems for interoperability and must be upgraded to retain this capability. These radios are not flashport equipped and therefore must be replaced.

Where this addresses Nextel's question, the City of Virginia Beach again expresses the need to have Sprint provide a detailed list of all of the replacement items indicating their acceptance or non-acceptance of each item and if the item is not accepted and/or changed in anyway then Sprint will provide an explanation of this modification. Sprint has indicated that they have had direct conversations with Motorola relevant to the City of Virginia Beach equipment list, but Sprint has not communicated the details of said discussions – either in the nature of or outcomes from the discussions, nor has any Motorola representative working on the City of Virginia Beach rebanding or City representation been included in said conversations. As mentioned in the TA mediated phone conversations, the Schedule D portion of other FRA negotiations have been sometimes tenuous in other FRA proceedings and until we have full detail and disclosure of the changes the City is in no position to assess how much this will impact the negotiations and time line for FRA execution.

Timeline of reconfiguration. As mentioned several times this needs to be identified before any agreement can be reached.

Response: Virginia Beach can not begin to work on developing subscriber programming templates until the surrounding entities have at least confirmed the suitability of their replacement channels. Virginia Beach currently utilizes shared trunked talkgroups with Chesapeake. Newport News, Norfolk, Portsmouth and Suffolk. Based on representations made at a recent regional HRTUG meeting it is our understanding that only Hampton, Portsmouth and Norfolk have completed their frequency analysis as of 1-31-07. Until these other entities confirm their replacement channels, including control and fail-soft channel assignments, Virginia Beach cannot complete development of it's subscriber radio programming templates. These templates will have to be completed before any programming efforts could begin, although replacement equipment could certainly be ordered in advance of that.

Shown below is our current understanding of the status of replacement channels in the region.

Sally	Primary Trusted System	Trunked Bystem Control Charmets being Retainded		Mon NPSPAC rational mirtual aid Conventional Channels being rebanded	
Chesapeake	Motorcia (SmartNet)	4	13	1	No

Hampton	M/A-Com (EDACS)	1	N/A	0	Yes
Newport News	Motorola (SmartNet)	1	5	a	No
Norfolk	Motorola (SmartNet)	1	2	1	Yes
Portsmouth	Motorola (SmartNet)	1	0	o	Yes
Suffoik	Motorola (SmartNet)	1	1	٥	No
Virginia Beach	Motorola (SmanNet)	อ	ם	3	Yes
York/James City County	Motorola (P25)	4	18	o	No

With this said, we could begin to reprogram our radios before the other Cities have an FRA place as long as the PFA is completed and they confirm their replacement channels, including control and fail-soft channel assignments. Basically, we do not need to wait and start all of the reconfigurations at the same time to ensure interoperability and to minimize radio touches, but we can not begin to say when we will need the frequencies until such time as the above mentioned Cities have confirmed the replacement channels.

As we have indicated before perhaps the biggest issue is the NPSPAC mutual aid channels. In order to retain NPSPAC mutual aid capability throughout the rebanding process, regardless of where City subscribers might need to utilize the channels (in either direct or repeated mode) the City needs to be able to access both the old and new NPSPAC channels for the duration of the rebanding project in VA and one could argue even in adjacent states, like NC, that are in Wave 3. The regional plan for NPSPAC mutual aid channel use in the Hampton Roads region is still in development but is being delayed by the inability of several HRTUG entities to finalize planning funding agreements with SN and the TA.

 Interoperability with adjacent municipalities. With which municipalities does the city interoperate and how are they programmed to interoperate, i.e. trunked radio system, conventional channel, NPSPAC MA. ..ECT?

Response: Virginia Beach currently utilizes shared trunked talkgroups with Chesapeake, Newport News, Norfolk, Portsmouth and Suffolk. In addition, we have all of the NSPAC Mutual. Aide channels.

4. Frequency report deliverables from the PFA.

Response: Report is attached

Related to the very recent information provided by the FCC for "second radio touches"; I
need to request a technical reason or facts that justify Motorola's proposed second touch
to remove the old channels from the subscriber units.

Response: Per Motorola: The work plan is to program all subscribers the first time to add the software and the new <u>conventional frequencies</u> that will ultimately replace those existing conventional frequencies you operate on today. After all subscribers have the new conventional frequencies added then the conventional repeaters would be changed to the new frequencies.

(now the subscribers have both old and new frequencies in them they will have the ability to switch over to the newly configured repeaters).

After the repeaters are changed then the subscriber radios will have to be "re-touched" to remove the old conventional channels from them. After rebanding the City would no longer be licensed to operate on these old conventional channels and they must be removed from the radios. (as opposed to trunking where the controllers would never assign the old channels after rebanding).

Additional Info: The City utilizes conventional 800 MHz channels in direct mode (Police T/A, Fire T/A) as well as the Secure Repeater channel therefore, while it will create some operational difficulties during the transition, the intent was to program both the old and new channels in the radios initially and detete the old T/A channels once everyone had been converted. Additionally many City subscribers also have access to the Chesapeake Fire T/A channel that is being replaced as part of that City's rebanding project.

We will still need to remove the old channels from the data subscribers, as specified and agreed to in the Phase 1 FRA, during Phase 2. As long as both the old and new channels are configured in the data radios, they spend more time searching for channels than they would have prior to rebanding – thus not providing comparable facilities.

Brian Grogan's legal costs -

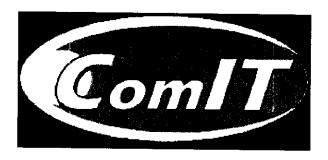
Response - attached in a PDF is the total legal costs from Moss & Barnett to VA Beach through January 2007. Please advise if similar information is required for the City's internal legal costs (i.e. Aimee Sullivan)

Preliminary Assessment of 800 MHz Co-Channel Environment

PROJECT CVB-REB-SUP CITY OF VIRGINIA BEACH 800 MHZ REBANDING SUPPORT

Prepared for:

CITY OF VIRGINIA BEACH Communications & Information Technology



Prepared by:

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May 22, 2006



Preliminary Assessment of 800 MHz Co-Channel Environment

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1 Introduction

The City of Virginia Beach, VA (City) retained the services of Federal Engineering, Inc. (FE) to assist in the planning and implementation of 800 MHz rebanding. As detailed in the statement of work agreed to between the City and FE and incorporated into the Planning Funding Agreement between the City and Sprint Nextel (SN), FE was tasked to assess the co-channel environment of the new replacement frequency assignments provided by the Transition Administrator (TA) and produce a report detailing the suitability of the replacement channels in providing comparable facilities. Ultimately, this analysis cannot be finalized until the last frequency assignments and reconfiguration of all surrounding licensees is realized therefore this a preliminary analysis of the potential co-channel environment based on the replacement frequencies proposed in the Frequency Proposal Reports (FPR) provided to the City by the TA

2 Frequency Proposal Report Review

FE contacted the TA and requested electronic versions of the Frequency Proposal Reports previously supplied for the City of Virginia Beach, VA to review the suitability of the proposed replacement channels and their comparability to the City's existing channels. Copies of the Frequency Proposal Reports supplied by the TA are attached to this report.

FE compared each FPR to the City's existing licenses and previous searches performed using tools provided on the FCC website. These previous searches are also included as attachments to this report.

During this analysis *FE* discovered that the City is currently using one frequency that apparently should also be reconfigured that is not included on the FPR for the license on which it is found. This channel (853.4875) is located on call sign WNQJ860 and identified as a mobile only station class. This frequency will be located in the new NPSPAC band post rebanding and *FE* submitted an inquiry to the TA to ascertain whether a suitable mobile only replacement channel will also be provided in order for the City to realize comparable facilities after reconfiguration.

The TA response to this inquiry indicated that since this frequency is classified as a mobile only station class, it's use is secondary to other uses and therefore not subject to mandatory reconfiguration but suggested that the City raise this issue with Sprint Nextel. *FE* followed this suggested course of action and requested that the technical contact for Sprint Nextel in previous negotiations. Mark Mayher, review this issue.

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Preliminary Assessment of 800 MHz Co-Channel Environment

FE also requested that the TA reevaluate this issue as this frequency will become part of the new post rebanding NPSPAC band and would apparently be used in the 800 MHz radio systems operated by the neighboring cities of Hampton, Newport News and Norfolk. The City of Virginia Beach would not realize comparable facilities to those it operates under today on this frequency due to the interference that would be caused by and to those relocated systems.

Table 1, shown below, summarizes the proposed co-channel environment indicated in each FPR by call sign after Nextel reconfiguration for the lower 120 800 MHz channels.

Call Sign	Current Freq.	Class	LOU	New Freq.	Co- Channel Users
WNLE888	851.8625	FB2	1	856.0875	None
WNLE888	851 8625	FB2	2	856.0875	None
WNLE888	851.8875	FB2	1	857.0375	None
WNLE888	851.8875	FB2	2	857.0375	None
WNLE888	853.9625	FB2	1	858.0375	None
WNLE888	853.9625	FB2	2	858.0375	None
WNQJ860	851.4125	FB2	1	856.0375	None
WNQJ860	852.4125	FB2	2	854.4875	None
WNQJ860	853.4875	MOB	3	NONE	???
WZ\$605	851.0375	FB	1	855.6875	None
WZS605	851.0375	FB	2	855.6875	None
WZS605	851.0375	FB2	3	855.6875	None

Table 1

FE conducted independent searches on the FCC ULS database to confirm the data shown in each FPR. Copies of these searches are included as attachments to this report. While these searches provide greater detail that that shown in the Frequency Proposal Reports, they did not reveal any licensees other than Nextel within the short spacing distances specified under FCC licensing rules for the 800 MHz band. As Nextel is required to vacate all of the lower 120 800 MHz channels, FE did not conduct any further co-channel analysis or co-channel interference contour analysis at this time.

3 Summary

As outlined in the TA's Rebanding Handbook, **FE** also advises the City that further analysis of the co-channel environment should be conducted at various points in the process since the co-channel environment is dynamic and may change during the reconfiguration process.

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